

BORDER SECURITY

Strengthened Visa Process Would Benefit from Additional Management Actions by State and DHS

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Highlights

Highlights of GAO-05-994T, a testimony before the Subcommittee on National Security, Emerging Threats, and International Relations, Committee on Government Reform, House of Representatives

Why GAO Did This Study

In adjudicating a visa application, Department of State (State) consular officers are on the front line of defense against those whose entry would likely be harmful to U.S. national interests. In October 2002, we identified shortcomings and made recommendations on the role of national security in the visa process. This testimony discusses our report issued today on actions taken since our 2002 report to strengthen the visa process, as well as areas that deserve additional management actions. It also discusses our July 2005 report on the status of the assignment of Department of Homeland Security (DHS) personnel to U.S. consular posts overseas.

What GAO Recommends

In our report issued today and our July report, we recommended further improvements to the visa process and the management of DHS's Visa Security Program. In addition, we recommended that Congress consider requiring State and the Federal Bureau of Investigation (FBI) to report on the options for and feasibility of providing visa adjudicators with more detailed information from the FBI's criminal history records, and to allow DHS personnel in Saudi Arabia the flexibility to determine the extent of their application reviews.

State and DHS agreed with most of our conclusions. Both agencies indicated that they were taking steps to implement the majority of our recommendations. State did not agree on the need for a comprehensive staffing plan.

www.gao.gov/cgi-bin/getrpt?GAO-05-994T.

To view the full product, including the scope and methodology, click on the link above. For more information, contact Jess Ford at (202) 512-4128 or fordj@gao.gov.

What GAO Found

State and DHS have taken many steps to strengthen the visa process as an antiterrorism tool. Consular officers are receiving clear guidance on the importance of addressing national security concerns through the visa process, and State has established clear procedures on visa operations worldwide. State has also increased its hiring of consular officers and language proficient Foreign Service officers, and has enhanced training and fraud prevention efforts. Further, consular officers have access to more information from intelligence and law enforcement agencies. However, some areas require additional attention. For example, officers we spoke with said that guidance is needed on DHS staff's roles and responsibilities overseas. In addition, while State has hired more consular officers, it continues to experience shortages in supervisory staff. As of April 30, 2005, 26 percent of midlevel positions were either vacant or filled by entry-level staff. During our visits to three consular posts in Saudi Arabia and Egypt—all of which are of interest to U.S. antiterrorism efforts—the visa sections were staffed with first-tour officers and no permanent midlevel visa chiefs to provide direct oversight. Further improvements are also needed in training and fraud prevention, as well as information sharing with the FBI.

In September 2003, DHS assigned visa security personnel to consular posts in Saudi Arabia. According to DHS, State's consular officials, and the deputy chief of mission in Saudi Arabia, the DHS officers in Saudi Arabia strengthen visa security. However, DHS does not maintain comprehensive data on their activities and thus is unable to fully demonstrate the program's impact. Further, DHS has not developed a strategic plan for visa security operations in Saudi Arabia or for the planned future expansion of the program.

Improvements and Remaining Challenges to the Visa Process

Issue	Improvements	Issues requiring attention
Policy	Clarified policies on national security concerns	Guidance needed on DHS roles overseas, and <i>Foreign Affairs Manual</i> should be updated
Staffing	Increased hiring and focused recruitment	Shortages of midlevel and language proficient officers and unreliable data on wait times for applicant interviews
Training	Expanded consular training with an emphasis on counterterrorism	Courses needed on terrorism travel trends and fraud prevention, among others
Fraud Prevention	Increased fraud awareness	Standard criteria needed to identify high-fraud posts
Information sharing	More information available from other agencies for name checks	Additional information from FBI criminal history files would facilitate visa processing
DHS Visa Security Program	Stationing of officers in Saudi Arabia with plans for expansion	Comprehensive data and strategic plan needed

Source: GAO.



Testimony

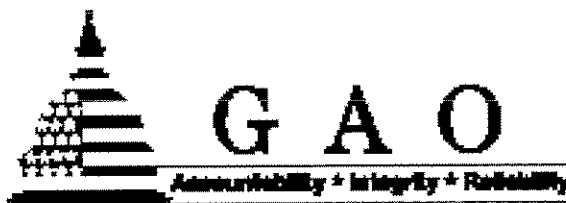
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Statement of Jess T. Ford, Director
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September 13, 2005

Mr. Chairman and Members of the Subcommittee:

I am pleased to be here to discuss our reports issued today and in July¹ on the actions that the Departments of State (State) and Homeland Security (DHS) have taken to strengthen the nonimmigrant visa² process as an antiterrorism tool. All 19 of the September 11, 2001, terrorist hijackers were issued a visa, which is a U.S. travel document foreign citizens must generally obtain before entering the country temporarily for business, tourism, or other reasons. In deciding to approve or deny a visa application, State's consular officers are on the front line of defense in protecting the United States against potential terrorists and others whose entry would likely be harmful to U.S. national interests. But consular officers must balance this security responsibility against the need to facilitate legitimate travel. In October 2002, we identified shortcomings and made recommendations aimed at strengthening the role of national security in the visa process, procedures for addressing heightened border security concerns, staffing, and counterterrorism training of consular officers.³ Similarly, staff of the National Commission on Terrorist Attacks Upon the United States, or the 9-11 Commission, reported that while there were efforts to enhance border security prior to September 11, no agency of the U.S. government at that time thought of the visa process as an antiterrorism tool.⁴ Indeed, the 9-11 Commission staff reported that consular officers were not trained to screen for terrorists.

Today I will discuss the changes made since our 2002 report to strengthen the visa process, as well as areas that deserve additional management attention. First, I will focus on our report issued today on changes in visa policy and guidance; consular resources, including staffing and training; and the extent to which U.S. agencies share information with visa adjudicators. Second, I will discuss our July 2005 report on the placement of DHS Visa Security Officers (VSO) at U.S. embassies and consulates overseas.

In conducting this work, we reviewed relevant legislation and agency documents, and interviewed State, DHS, and Federal Bureau of Investigation (FBI) officials in Washington, D.C., as well as visa chiefs and other consular affairs staff from 25 posts overseas. We observed visa operations and interviewed U.S. government officials at 8 U.S. consular posts in seven countries—Egypt, Indonesia, Malaysia, Morocco, Spain, Saudi Arabia, and the United Kingdom.

¹See GAO, *Border Security: Actions Needed to Strengthen Management of Department of Homeland Security's Visa Security Program*, GAO-05-801 (Washington, D.C.: July 29, 2005), and GAO, *Border Security: Strengthened Visa Process Would Benefit From Improvements in Staffing and Information Sharing*, GAO-05-859 (Washington, D.C.: Sept. 13, 2005).

²The United States also grants visas to people who intend to immigrate to the United States. In this testimony, the term "visa" refers to nonimmigrant visas only.

³GAO, *Border Security: Visa Process Should Be Strengthened as an Antiterrorism Tool*, GAO-03-132NI (Washington, D.C.: Oct. 21, 2002).

⁴9-11 Commission, *9/11 and Terrorist Travel: Staff Report of the National Commission on Terrorist Attacks Upon the United States* (Washington, D.C.; Aug. 21, 2004).

Our work was conducted in accordance with generally accepted government auditing standards. In addition, GAO has conducted extensive reviews of different aspects of the visa process and related areas (see appendix I for a list of GAO reports).

Summary

State and DHS have taken many steps to strengthen the visa process as an antiterrorism tool. Specifically, State has provided clear instructions to consular officers on the importance of national security to the visa process. At every post we visited, including those of special interest to antiterrorism efforts, consular staff viewed security as their top priority, while recognizing the importance of facilitating legitimate travel. To further strengthen the visa process, State has increased hiring of consular officers, targeted recruitment of foreign language proficient officers, revamped consular training with a focus on counterterrorism, and increased resources to combat visa fraud. Further, intelligence and law enforcement agencies have shared more information for consular officers' use in conducting name checks on visa applicants. Despite these improvements, we found that further actions are needed to enhance the process. Consular officers we interviewed said that guidance is needed on interagency protocols regarding DHS staff's roles and responsibilities overseas. Actions are also needed to ensure that State has sufficient experienced staff with the necessary language skills at key consular posts. While State has hired more consular officers, it continues to experience shortages in supervisory staff. As of April 30, 2005, 26 percent of midlevel positions were either vacant or filled by entry-level staff. Moreover, State has not prioritized the staffing of more experienced officers to key posts. For example, we found that the visa sections in critical posts in Saudi Arabia and Egypt were staffed with first-tour, entry-level officers and no permanent midlevel visa chiefs to provide direct supervision and oversight. Our report issued today also calls for further improvements in training and fraud prevention, as well as information sharing with the FBI.

The Homeland Security Act of 2002 authorized the assignment of DHS employees to U.S. embassies and consulates to provide expert advice and training to consular officers regarding visa security, among other things.⁵ In September 2003, DHS assigned VSOs to consular posts in Saudi Arabia and plans to assign staff to other posts to strengthen the visa process at these locations. VSOs assigned to Saudi Arabia review all visa applications prior to final adjudication by consular officers as required by the Homeland Security Act. These VSOs also assist consular officers with interviews and fraud prevention. According to DHS, State's consular officials, and the deputy chief of mission in Saudi Arabia, the VSOs in Riyadh and Jeddah have strengthened visa security. However, no comprehensive data exists to demonstrate the VSOs' impact. In addition, the requirement to review all visa applications in Saudi Arabia limits the VSOs' ability to provide additional training and other services to consular officers, such as assisting with interviews. Furthermore, DHS planned to expand the Visa Security Program⁶ to five locations in fiscal year 2005 and intends further expansion in future years; however, chiefs of mission at the posts chosen for expansion in fiscal year 2005 delayed approvals needed for the expansion.

⁵P.L. 107-296.

⁶For the purpose of this statement, we refer to DHS's program that oversees the implementation of the requirements in sect. 428 (e) and sect. 428 (i) of the Homeland Security Act of 2002 as the Visa Security Program.

Embassy and State officials attributed the delays to various questions and concerns about the program's goals, staffing requirements, and coordination plans. According to DHS officials, the department provided sufficient responses throughout 2004 and 2005 to answer the concerns. However, DHS has not developed a strategic plan for visa security operations in Saudi Arabia or the future expansion posts that defines mission priorities and long-term goals and identifies the outcomes expected at each post.

In our report issued today and our July report, we have recommended actions to further improve both the visa process and the management of the Visa Security Program. In addition, we have recommended that Congress consider requiring State and the FBI to report on the options for and feasibility of providing visa adjudicators with more detailed information from the FBI's criminal history records, and to allow DHS the flexibility to determine which visa applications its personnel in Saudi Arabia will review.

In general, State and DHS agreed with the majority of our conclusions in both reports. Both agencies indicated that they have begun taking steps to implement our recommendations. However, State believed that it already had a plan to address vulnerabilities in consular staffing and that development of a comprehensive plan that we recommended was not necessary. The Department of Justice did not comment on the matter for congressional consideration regarding visa adjudicators' access to certain information in the FBI's criminal history records; it provided additional information about other efforts that the department is taking to enhance the sharing of law enforcement and intelligence information in connection with visa processing.

Background

The 1952 Immigration and Nationality Act, as amended, is the primary body of law governing immigration and visa operations.⁷ The Homeland Security Act of 2002 generally grants DHS exclusive authority to issue regulations on, administer, and enforce the Immigration and Nationality Act and all other immigration and nationality laws relating to the functions of U.S. consular officers in connection with the granting or denial of visas.⁸ As we reported in July 2005,⁹ the act also authorized the assignment of DHS employees to U.S. embassies and consulates to provide expert advice and training to consular officers regarding visa security, among other things. In particular, the act mandated that VSOs on-site in Saudi Arabia review all visa applications prior to final adjudication by consular officers.

A September 2003 Memorandum of Understanding between State and DHS further outlines the responsibilities of each agency with respect to visa issuance. State manages the visa process, as well as the consular corps and its functions at 211 visa-issuing posts overseas. In addition, State provides guidance, in consultation with DHS, to consular officers regarding visa policies and procedures. DHS is responsible for establishing visa policy, reviewing implementation of the

⁷P.L. 82-414, 8 U.S.C. § 1101 et seq.

⁸State retains authority in certain circumstances as outlined in the act. See P.L. 107-296.

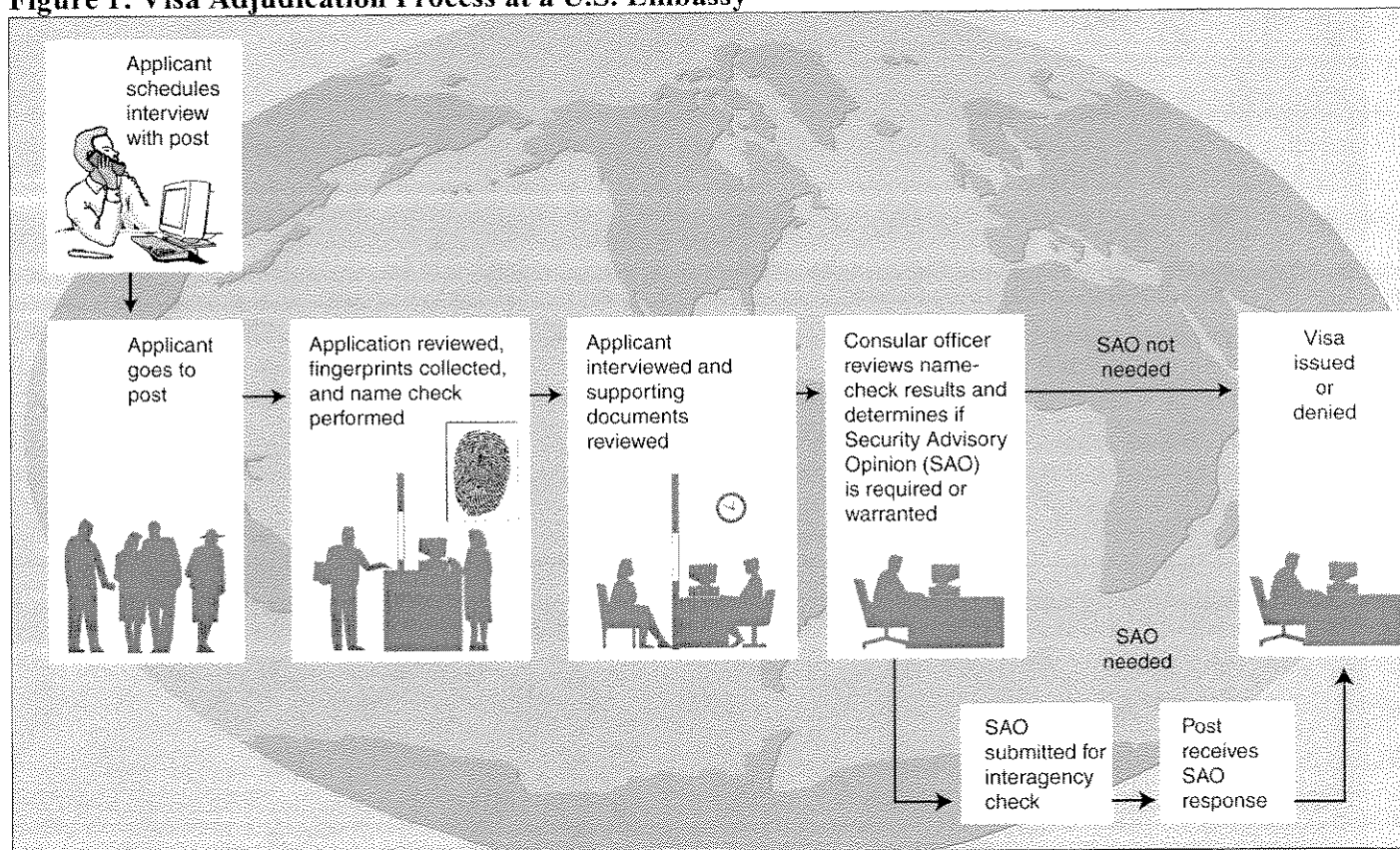
⁹GAO-05-801.

policy, and providing additional direction. This agreement also broadly defines the DHS officers' responsibilities in reviewing visa applications at consular posts overseas, indicating, among other things, that they will provide expert advice to consular officers regarding specific security threats relating to visa adjudication and will also provide training to consular officers on terrorist threats and applicant fraud.

The process for determining who will be issued or refused a visa contains several steps, including documentation reviews, in-person interviews, collection of biometrics (fingerprints), and cross-referencing of the applicant's name against the Consular Lookout and Support System (CLASS)¹⁰ (see fig. 1).

¹⁰CLASS is a State Department name-check database that posts use to access critical information for visa adjudication. The system contains records provided by numerous agencies and includes information on persons with visa refusals, immigration violations, and terrorism concerns.

Figure 1: Visa Adjudication Process at a U.S. Embassy



Sources: GAO; Nova Development (clip art).

In 2002, we recommended actions to strengthen the visa process as an antiterrorism tool, including

- establishing a clear policy on the priority attached to addressing national security concerns through the visa process;
- creating more comprehensive, risk-based guidelines and standards on how consular officers should use the visa process to screen against potential terrorists;
- performing a fundamental reassessment of staffing and language skill requirements for visa operations; and
- revamping and expanding consular training courses to place more emphasis on detecting potential terrorists.

Visa Process Strengthened, and Further Actions Would Support Ongoing Improvements

Since 2002, State, DHS, and other agencies have taken numerous steps to strengthen the visa process as an antiterrorism tool and increase its overall efficiency and effectiveness. In particular, the Assistant Secretary in the Bureau of Consular Affairs has taken a leading role in implementing changes to the visa process and promoting its use as a screen against potential terrorists. However, additional actions could enhance the visa process. State has increased and clarified visa policies and guidance, but additional steps are needed to ensure these changes are implemented. Additionally, State has increased resources to strengthen the visa process, including hiring additional consular officers, targeting recruitment, and expanding training efforts; however, staffing limitations remain a concern, posts seek further training, and other gaps remain. Lastly, while interagency information-sharing efforts have increased, consular officers do not have direct access to detailed information from the FBI's criminal records, which would help facilitate the approval of legitimate travelers.

Visa Policies, Procedures, and Guidance Enhanced, but Additional Steps Needed to Ensure They Are Implemented

We reported in October 2002 that consular officers held differing views on balancing the need for national security and customer service in the visa process. In addition, State had not issued comprehensive policy guidance to posts regarding how consular officers should react to the heightened border security concerns following the September 11 attacks. Over the past three years, State has implemented several changes to address these issues, and consular officials stated that the report and its recommendations provided a framework for these changes. For example, in February 2003, Consular Affairs issued guidance identifying national security as the first priority of the visa process. Consular officers we interviewed said the guidance was generally clear, and officers at all eight posts we visited viewed security as the most critical element of the visa process. In addition, Consular Affairs identified certain areas where additional guidance was needed to streamline visa procedures. State has issued more than 80 standard operating procedures, in consultation with DHS, to inform consular officers on issues such as fingerprinting and special clearance requirements.

Despite these improvements, some consular officers we interviewed stated that it has been difficult to synthesize and consistently apply all of the changes to the visa process. The guidance provided to consular officers in the field is voluminous and can change rapidly, according to consular officials. The Consular Affairs Bureau may notify its officers overseas of policy changes through cables, postings on its internal Web site, and informal communications. However, the bureau has not consistently updated the consular and visa chapters of the *Foreign Affairs Manual*—State's central resource for all regulations, policies, and guidance—to reflect these changes. Throughout 2005, the bureau has updated several portions of the manual, but, as of June 2005, some sections had not been updated since October 2004. Consular officials stated that they are overhauling the standard operating procedures to eliminate those that are obsolete and incorporate current requirements into the manual. However, while the Consular Affairs Bureau's internal Web site contains all of the standard operating procedures, it also links to out-of-date sections in the manual. As a result, there is no single, reliable source for current information.

Consular officers also indicated that additional guidance is needed on certain interagency protocols. Specifically, 15 out of 25 visa chiefs we interviewed reported that additional guidance would be helpful regarding the interaction between the Bureau of Consular Affairs and DHS. For example, DHS personnel stationed overseas work on a variety of immigration and border security activities and serve in a regional capacity. However, DHS has not provided guidance to consular officers regarding the roles and geographic responsibilities for its personnel.

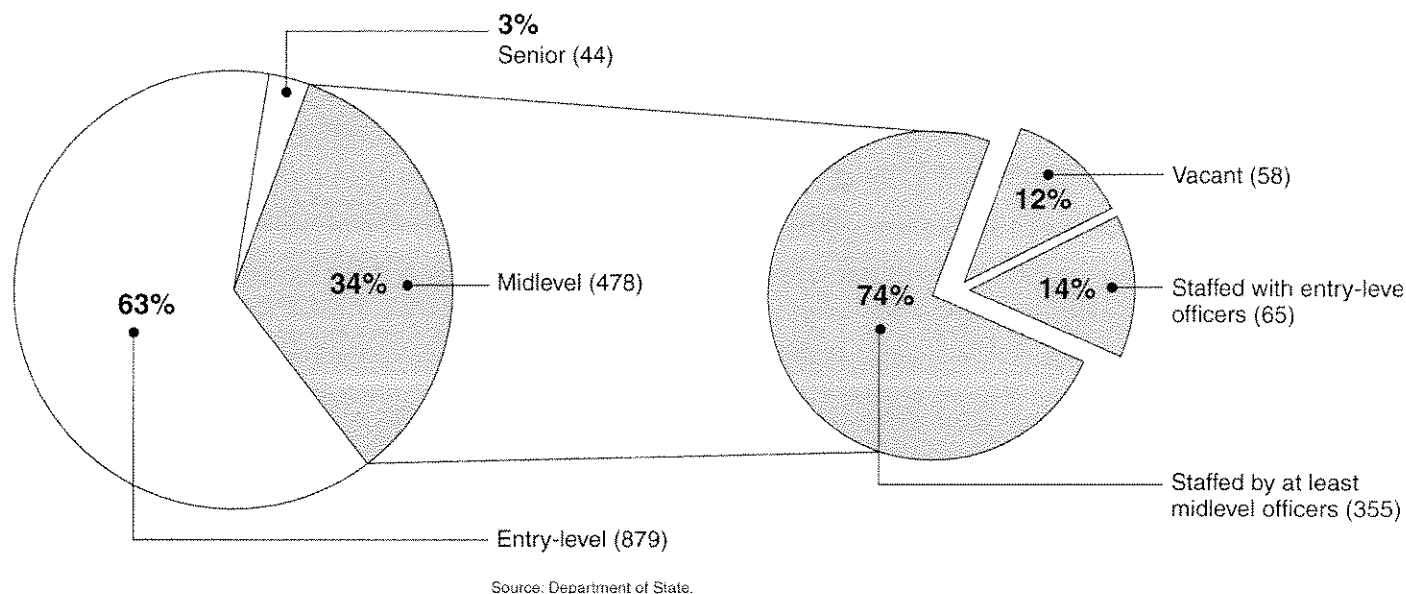
Resources for Visa Function Increased, but Staffing Shortages and Other Gaps Remain a Concern

In 2002, we found that at some posts the demand for visas, combined with increased workload per visa applicant, exceeded the available staff. As a result, we recommended that State perform a fundamental reassessment of staffing requirements for visa operations. In our report issued today, we have noted that State has received funding to address staffing shortfalls, but we continue to see the need for a reassessment of resource needs worldwide. Through the Diplomatic Readiness Initiative and other sources,¹¹ State has increased its Foreign Service officer consular positions by 364, from 1,037 in fiscal year 2002 to 1,401 in fiscal year 2005. Moreover, a senior human resource official anticipates that many officers hired under the Diplomatic Readiness Initiative will begin to reach promotion eligibility for midlevel positions within the next two years. However, as we have previously reported in 2003,¹² the overall shortage of midlevel Foreign Service officers would remain until approximately 2013. As of April 30, 2005, we found that 26 percent of midlevel consular positions were either vacant or filled by an entry-level officer (see fig. 3). In addition, almost three-quarters of the vacant positions were at the FS-03 level—midlevel officers who generally supervise entry-level staff—which consular officials attribute to low hiring levels prior to the Diplomatic Readiness Initiative and the necessary expansion of entry-level positions to accommodate increasing workload requirements after September 11, 2001.

¹¹In 2001, State launched the Diplomatic Readiness Initiative—a 3-year effort to ensure global diplomatic readiness.

¹²GAO, *State Department: Targets for Hiring, Filling Vacancies Overseas Being Met, but Gaps Remain in Hard-to-Learn Languages*, GAO-04-139 (Washington, D.C.: Nov. 19, 2003).

Figure 3: Authorized Foreign Service Officer Consular Positions and Distribution of Staff by Grade, as of April 30, 2005



Note: Vacancy figures may not reflect recent promotions of officers to a higher grade who were still serving in lower-grade positions as of April 30, 2005.

During our February 2005 visits to Riyadh, Jeddah, and Cairo, we observed that the consular sections were staffed with entry-level officers on their first assignment with no permanent, midlevel visa chief to provide supervision. Although these posts had other mid- or senior-level consular officers, their availability on visa issues was limited because of their additional responsibilities. For example, the head of the visa section in Jeddah was responsible for managing the entire section as well as services for American citizens due to a midlevel vacancy in that position. At the time of our visit, the Riyadh Embassy did not have a midlevel visa chief. Similarly, in Cairo, there was no permanent midlevel supervisor between the winter of 2004 and the summer of 2005, and Consular Affairs used five temporary staff on a rotating basis during this period to serve in this capacity. Entry-level officers that we spoke with stated that due to the constant turnover, the temporary supervisors were unable to assist them adequately. At the U.S. consulate in Jeddah, entry-level officers expressed concern about the lack of a midlevel supervisor. Officers in Jeddah stated that they relied on the guidance they received from the DHS visa security officer assigned to the post. However, as of July 2005, visa security officers are stationed only at two consular posts in Saudi Arabia—not at any of the other 209 visa-issuing posts overseas.

If the Consular Affairs Bureau identifies a need for additional staff in headquarters or overseas, it may request that the Human Resources Bureau establish new positions. In addition, posts can also describe their needs for additional positions through their consular packages—a report submitted annually to the Consular Affairs Bureau that details workload statistics and staffing requirements, among other things. For example, in December 2004, during the course of our work, the consular section in Riyadh reported to Washington that there was an

immediate need to create a midlevel visa chief position at post, and State worked with human resource officials to create this position, which, according to State officials, will be filled by summer 2005.

However, the current assignment process does not guarantee that all authorized positions will be filled, particularly at hardship posts.¹³ Historically, State has rarely directed its employees to serve in locations for which they have not bid on a position, including hardship posts or locations of strategic importance, due to concerns that such staff may be more apt to have poor morale or be less productive. Further, though Consular Affairs can prioritize positions that require immediate staffing, according to a deputy assistant secretary for human resources, it generally does not do so. For example, Consular Affairs could choose not to advertise certain positions of lesser priority during an annual assignment cycle. However, senior Consular Affairs officials acknowledged that they rarely do this. According to these officials, Consular Affairs does not have direct control over the filling of all consular positions and can often face resistance from regional bureaus and chiefs of mission overseas who do not want vacancies at their posts. Therefore, due to State's decision to not force assignments, along with the limited amount of midlevel officers available to apply for them,¹⁴ important positions may remain vacant.

Improvements Made in Recruitment, Training, and Fraud Prevention, and Additional Actions Would Support Ongoing Initiatives

In 2002, we found that not all consular officers were proficient enough in their post's language to hold interviews with applicants. We also found that training for new consular officers was focused on detecting intending immigrants through the visa process, with little training given on detecting possible terrorists. Today we are reporting that State has made a number of improvements in its recruitment of language proficient Foreign Service officers, expanded and revamped consular training, and increased the attention paid to fraud prevention. However, we found that additional actions would support ongoing improvements. For example,

- State has created programs to better target its recruitment of Foreign Service officers who speak critical languages. For example, in March 2004, State created the "Critical Needs Language Program," which increases the opportunities for appointment to the Foreign Service for new hires proficient in Arabic, Chinese, Indic, Korean, Russian, or Turkic, and who have passed the Foreign Service Exam. From March 2004 through May 2005, 172 of the 564 Foreign Service officers hired were proficient in one of these languages. Despite these improvements, additional actions are needed to fill continuing language proficiency shortfalls. As of April 30, 2005, State reported that about 14 percent of

¹³State defines hardship posts as those locations where the U.S. government provides differential pay incentives—an additional 5 percent to 25 percent of base salary depending on the severity or difficulty of the conditions—to encourage employees to bid on assignments to these posts and to compensate them for the hardships they encounter.

¹⁴The assignment process begins when Foreign Service employees who are eligible to be transferred from their current assignment each year receive a list of instructions and upcoming vacancies for which they may compete. Staff then must submit a list of those positions for which they want to be considered.

consular-coned¹⁵ Foreign Service officers in language designated positions did not meet language requirements for their position.

- State has revamped and expanded consular training to enhance visa security. For example, in October 2003, the Basic Consular Course was extended from 26 days to 31 days, and classes were added in analytical interviewing and fraud prevention. In addition, in March 2002, State created a new course in advanced name-checking. However, additional training could further assist consular officers. All of the posts we contacted reported that additional training on terrorist travel trends would be helpful, with 16 posts responding that such training would be extremely helpful. Some posts also reported that additional briefings on counterterrorism techniques specific to post and fraud prevention would be helpful.
- State has taken several steps to increase its focus on preventing and detecting fraud in the visa process. For example, by 2004, State's Bureau of Diplomatic Security had deployed 25 visa fraud investigators to U.S. embassies and consulates. In addition, State's Office of Fraud Prevention Programs has developed several ways for consular officers in the field to learn about fraud prevention, including developing an Internet-based "E-room," with more than 500 members, which serves as a discussion group for consular officers, as well as a place to post cables and lessons learned from prior fraud cases. However, until recently, the department has not used a systematic process to identify consular posts with the highest degree of visa fraud. According to State officials, fraud rankings for consular posts have not been based on an objective analysis using standardized criteria, but have been self-reported by each post. As a result, previous resources for fraud prevention, including the 25 visa fraud investigators assigned in 2004, may not have been allocated to posts with the highest need. We also plan to report later this year on the internal controls that are in place to mitigate the risks of visa malfeasance—the provision of a visa in exchange for money or something else of value—and intend to make several recommendations to help ensure adherence to these controls.

Number of Intelligence and Law Enforcement Records in CLASS Increased, but Additional Information Would Help Facilitate Legitimate Travel

The September 11 attacks highlighted the need for comprehensive information sharing. In January 2005, GAO identified effective information sharing to secure the homeland as a high-risk area of the U.S. government due to the formidable challenges the federal government still faces in this area.¹⁶ With cooperation from other federal agencies, State has increased the amount of information available to consular officers in CLASS. Name-check records from the intelligence community have increased fivefold from 48,000 in September 2001 to approximately 260,000 in June 2005, according to consular officials. Moreover, consular officials told us that, as of fall 2004, CLASS contained approximately 8 million records from the

¹⁵State requires that a generalist applicant to the Foreign Service select a "cone," which is a functional area of specialization, when applying to take the written examination. For generalists, Foreign Service specializations are management, consular, economic, political, and public diplomacy.

¹⁶GAO, *High-Risk Series: An Update*, GAO-05-207 (Washington, D.C.: January 2005).

FBI. In addition, State has developed more efficient methods of acquiring certain data from law enforcement databases. For example, State established a direct computer link with the FBI to send descriptive information from the FBI's National Crime Information Center (NCIC) to CLASS on a daily basis.

While the additional records in CLASS have helped consular officers detect those who might seek to harm the United States, many consular officers we interviewed stated that the increased volume of records and lack of access to other detailed information can lead to visa-processing delays. In particular, consular officers do not have direct access to detailed information in the FBI's criminal history records. Section 403 of the USA PATRIOT Act of 2001¹⁷ directs the Attorney General and the FBI to provide State with access to extracts of certain files¹⁸ containing descriptive information for the purpose of determining whether a visa applicant has a criminal history record contained in the NCIC Interstate Identification Index (or Index). The USA PATRIOT Act also states that access to an extract does not entitle consular officers to obtain the full contents of the corresponding records. In accordance with this mandate, FBI officials stated that the bureau provides to CLASS extracts that contain all available biographical information, such as the date of birth and height of the person with the criminal record.¹⁹ As a result, when conducting a CLASS name check, consular officers told us they may not be able to determine whether an FBI file matches an applicant because the extracts lack sufficient biographical information. Moreover, in accordance with section 403, the extracts do not contain details such as charges or dispositions of the cases, which are necessary to determine if the applicant might be ineligible for a visa.²⁰ For example, the information in CLASS does not distinguish between a conviction for a crime such as kidnapping, or an acquittal on charges of driving while intoxicated.

Consular officers, therefore, must fingerprint applicants who have a potential match in the Index for positive identification in FBI records to then ascertain whether the information contained in the criminal record would make the applicant ineligible for a visa.²¹ In fiscal year 2004, of the more than 40,000 sets of fingerprints consular officers sent to the FBI for verification, about 29

¹⁷P.L. 107-56.

¹⁸The files include the NCIC's Interstate Identification Index, which is the FBI's database of criminal history records, Wanted Persons Files, and any other files maintained by NCIC that may be mutually agreed upon by the Attorney General and the agency receiving access.

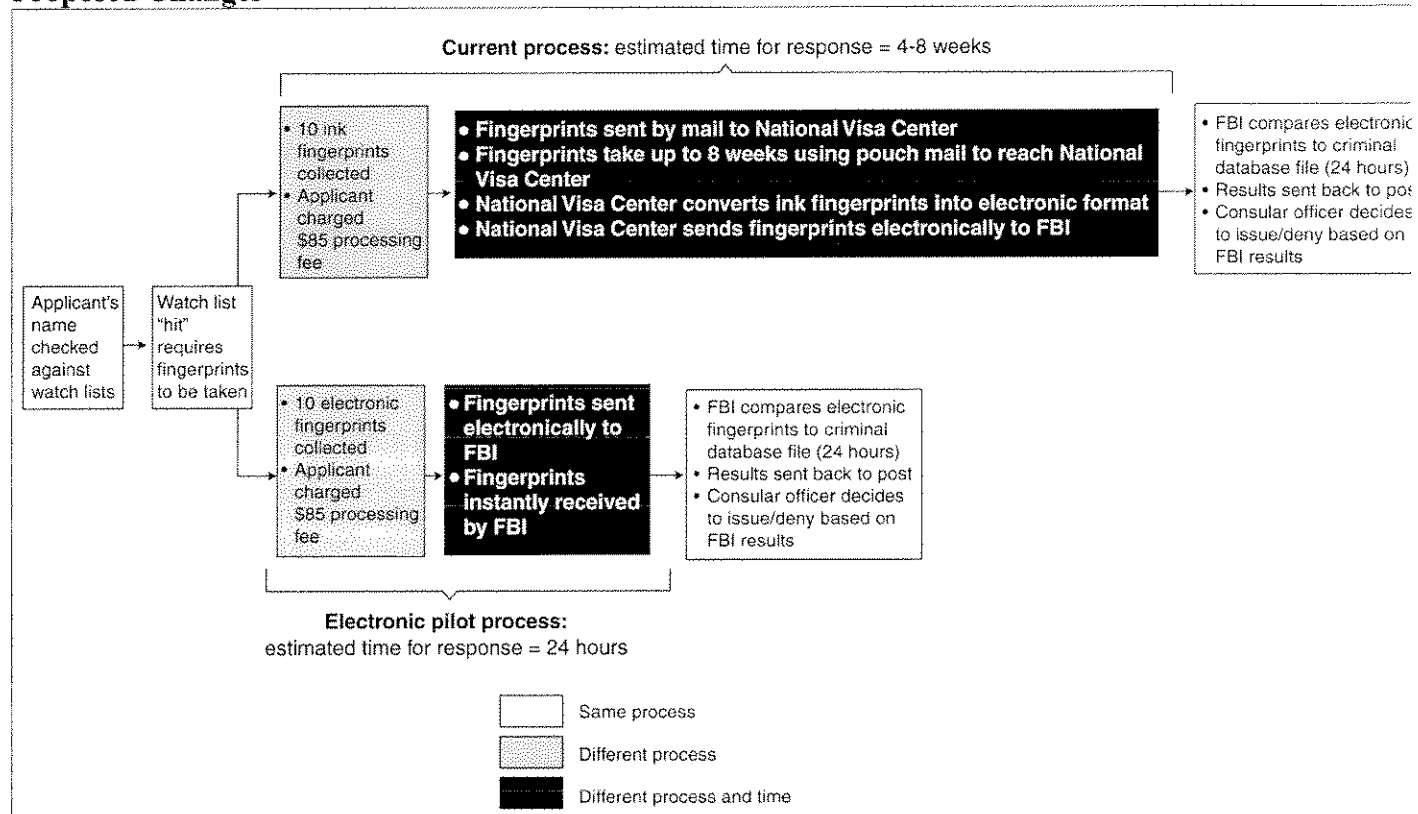
¹⁹According to FBI officials, examples of the information provided to CLASS, when available, include the FBI record number, name and alias, date of birth, place of birth, citizenship, sex, race, eye color, hair color, height, or weight.

²⁰To render an alien ineligible under INA 212(a)(2)(A)(i)(I), the conviction must be for a statutory offense that involves moral turpitude, which includes many serious crimes, such as kidnapping and murder, but does not include other crimes that may be reflected in the NCIC database.

²¹This requirement is also consistent with the National Crime Prevention and Privacy Compact Act of 1998 (42 U.S.C. 14611 et seq.) (or Compact Act), which organizes an electronic information-sharing system among the federal government and states to exchange criminal history records, such as those contained in the Index, for noncriminal justice purposes. The Compact Act requires that consular officers, as noncriminal justice personnel, first submit the visa applicant's fingerprints, or other approved form of identification, for positive identification before the record can be released.

percent were positive matches between the applicant and a criminal record in the Index. State officials we spoke with estimated that of those applicants who were positively identified, only about 10 percent were denied a visa based on the information provided by the FBI. Moreover, fingerprinted applicants are charged an additional \$85 processing fee and, as of the spring of 2005, must wait an estimated 4 to 8 weeks for a response from Washington, D.C., before adjudication can proceed. According to FBI and State officials, the processing delays are due to inefficiencies in the way the prints are sent to the FBI for clearance (see fig. 4).

Figure 4: Fingerprint Requirements for Access to Detailed Information in FBI Files and Proposed Changes



Sources: GAO; Nova Development and Map Resources (clip art).

To facilitate more efficient fingerprint processing, State and the FBI are implementing an electronic fingerprint system whereby consular officers will scan the applicants' fingerprints at post and submit them directly into the FBI's database. FBI and State officials told us that posts would be notified if the record in question matched the applicant within 24 hours. However, thousands of visa applicants could still face lengthier wait times and additional fingerprinting fees that they would otherwise not have incurred because consular officers lack enough information at the time of the interview to determine if the records in CLASS match the applicant.

The FBI and State have discussed several options to help ensure that consular officers can facilitate legitimate travel; however, each would require legislative changes and would entail associated trade-offs. These options include the following:

- Consular officials told us that access to additional information in a criminal history file, such as the charge and disposition of a case, would allow their officers to determine which crimes are serious enough to require a positive fingerprint match prior to adjudication. However, FBI officials noted that there are some technical limitations on extracting specific pieces of data from the criminal history records.
- To avoid some of the technical limitations associated with the Index, FBI officials stated that it would be easier to provide visa adjudicators access to the full criminal history records. However, these officials told us that assurances would need to be in place to prevent misuse of the information, given its sensitive nature. Indeed, State and the FBI have already negotiated a Memorandum of Understanding aimed at protecting the information passed from NCIC to CLASS. However, consular officials indicated that their officers may need access only to the criminal charge and disposition of the case to adjudicate a visa case more efficiently.

Recommendations

In our report issued today, we are recommending, among other things, that State and DHS, in consultation with appropriate agencies, clarify certain visa policies and procedures and facilitate their implementation, and ensure that consular sections have the necessary tools to enhance national security and promote legitimate travel, including effective human resources and training. In particular, we recommend that State develop a comprehensive plan to address vulnerabilities in consular staffing worldwide, including an analysis of staffing requirements and shortages, foreign language proficiency requirements, and fraud prevention needs, among other things—the plan should systematically determine priority positions that must be filled worldwide based on the relative strategic importance of posts and positions and realistic assumptions of available staff resources. We also suggest that Congress consider requiring State and the FBI to develop and report on a plan to provide visa adjudicators with more efficient access to certain information in the FBI’s criminal history records to help facilitate the approval of legitimate travelers.

In commenting on a draft of our report, State noted that it is a fair and balanced evaluation of the improvements made to the visa process. State agreed with most of our conclusions, and indicated that it is taking action to implement the majority of our recommendations. However, State disagreed with our recommendation that it prepare a comprehensive plan to address vulnerabilities in consular staffing. State argued that it already had such a plan. Based on our analysis, we continue to believe it is incumbent on the department to conduct a worldwide analysis to identify high-priority posts and positions, such as supervisory consular positions in posts with high-risk applicant pools or those with high workloads and long wait times for applicant interviews. As we note in our report, at the time of our work, the midlevel visa chief positions in Riyadh and Jeddah, Saudi Arabia, and Cairo, Egypt, were not filled with permanent midlevel officers. This was a serious deficiency given that the visa sections were staffed with

officers on their first tour. Although State noted that it anticipated addressing this shortage of midlevel consular officers before 2013, it did not indicate when that gap would be filled. Moreover, State's bidding and assignment process does not guarantee that the positions of highest priority will always be filled with qualified officers. Therefore, a further assessment is needed to ensure that State has the right people in the right posts with the necessary skill levels.

Actions Needed to Strengthen Management of DHS's Visa Security Program

In September 2003, DHS assigned Visa Security Officers (VSO) to consular posts in Saudi Arabia and plans to assign staff to other posts to strengthen the visa process at these locations. As we addressed in our July 2005 report, according to State Department consular officers, the deputy chief of mission, and DHS officials, VSOs in Saudi Arabia enhance the security of the visa adjudication process at these consular posts, though several issues raise concerns about the VSOs' role and impact. VSOs in Saudi Arabia provide an additional law enforcement capability to the visa adjudication process and have access to and experience using important law enforcement information not readily available to consular officers. Moreover, VSOs' border security and immigration experience can assist consular officers during the visa process. The consular sections in Riyadh and Jeddah have incorporated the VSOs' review of all visa applications into the adjudication process in Saudi Arabia. In addition to reviewing applications, the VSOs may conduct secondary interviews with some visa applicants based either on findings from their application reviews or a consular officer's request. Despite the VSOs' positive effect on visa operations, however, several concerns exist about their role and overall impact.

- The requirement that VSOs review all visa applications in Saudi Arabia limits the amount of time they can spend on training and other valuable services. We observed that VSOs in Riyadh and Jeddah must spend a significant amount of time reviewing all visa applications, including those of low-risk applicants or individuals who do not pose a threat to national security, as well as those that have preliminarily been refused by consular officers. A Visa Security Program official noted that this mandate is only for visa security operations in Saudi Arabia and not other posts to which DHS plans to expand the program. VSOs, DHS and State officials, and the deputy chief of mission all agreed that the mandate to review all applications was forcing the VSOs to spend time on lower priority tasks, limiting their ability to perform other important activities, such as providing training or conducting additional secondary interviews of applicants.
- DHS has not maintained measurable data to fully demonstrate the impact of VSOs on the visa process. The VSOs that were stationed in Riyadh during our visit estimated that, based on their review of visa applications, they had recommended that visas be refused after the preliminary decision to issue a visa by consular officers in about 15 cases between October 2004 and February 2005. In addition, the DHS officials in Saudi Arabia and in Washington, D.C., were able to provide anecdotal examples of assistance provided to the consular officers. However, DHS has not developed a system to fully track the results of visa security activities in Saudi Arabia. For example, DHS could not provide data to demonstrate the number of cases for which they have recommended refusal.

DHS's Planned Expansion of Security Program Delayed

DHS plans to expand the Visa Security Program to five additional posts in fiscal year 2005; however, the assignments of VSOs were delayed at four of the five selected expansion posts. DHS attributed the delay to resistance by State, as well as funding problems; State and chiefs of mission attributed the delays to various outstanding questions about the program. Following DHS's initial request in June 2004 to assign 21 VSOs to five expansion posts, embassy officials raised questions and concerns, including regarding the criteria used by DHS to select expansion posts, the reasoning for the number of VSOs requested for the posts, and DHS's plans to coordinate with existing law enforcement and border security staff and programs at post. In 2004 and 2005, DHS provided responses, through State's Bureau of Consular Affairs, to the questions raised by the chiefs of mission at four of the expansion posts. According to DHS, the responses were sufficient to answer the concerns. We reviewed DHS's responses to the posts, and identified a number of issues that had not been fully addressed, such as what criteria DHS would use to demonstrate the effectiveness of its officers. Nonetheless, the chiefs of mission at three posts approved DHS's National Security Decision Directive 38²² requests in March and June 2005, while, as of June 2005, one post had still not approved the request.

Although DHS plans to expand the Visa Security Program in fiscal year 2005 and beyond, it does not have a strategic plan that defines mission priorities and long-term goals and identifies the outcomes expected at each post. We have identified the development of a strategic plan as an essential component of measuring progress and holding agencies accountable.²³ The development of an overall strategic plan for the Visa Security Program prior to the expansion of the program may have addressed the questions initially raised by State and embassy officials that led to the delay of the assignment of VSOs. Moreover, a strategic plan would provide a framework for DHS to address broader questions regarding the selection criteria for expansion, the roles and responsibilities of VSOs, and the cost of establishing the program at posts. Officials from DHS and State, as well as consular officials we contacted overseas, all agreed that the development of such a plan would be useful to guide visa security operations in Saudi Arabia and other posts. It would also be useful to inform the Congress, as well as State and other agencies who participate in the visa process at consular posts overseas.

Recommendations

In our July 2005 report, we recommended that DHS develop a strategic plan to guide the operations of the Visa Security Program in Saudi Arabia and the program's expansion to other embassies and consulates. This plan should define mission priorities and long-term goals and identify expected outcomes. In addition, the strategic plan and supporting documents should include the criteria used to select the locations for expansion, justification for the number of VSOs at each post, costs associated with assigning VSOs overseas, and their roles and responsibilities in relation to other agencies at post. In addition, we recommended that DHS

²²The National Security Decision Directive-38 process requires non-State agencies to seek approval of chiefs of missions on any proposed changes in the size, composition, or mandate of their staff.

²³See GAO, *Executive Guide: Effectively Implementing the Government Performance and Results Act*, GAO/GGD-96-118 (Washington, D.C.: June 1996).

develop and maintain comprehensive performance data that track the results and demonstrate impact of VSO activities. We also proposed that Congress consider amending current legislation, which requires the review of all visa applications in Saudi Arabia, to allow DHS the flexibility to determine which applications VSOs will review prior to final adjudication by consular officers. This would allow VSOs to focus on the applications of those who may pose a risk to national security, providing them time to perform other tasks that could benefit consular officers.

In commenting on our report, DHS stated that it was taking actions to implement performance measurements and a strategic plan for the Visa Security Program, as described in our recommendations. DHS indicated that it is expanding the tracking and measurement of performance data to better reflect program results, and is developing a strategic plan that will integrate the key elements described in our recommendation. Regarding the matter for congressional consideration to provide DHS with the flexibility to determine the review of visa applications in Saudi Arabia, DHS noted that a legislative change should maintain the department's authority and discretion in determining the scope of the VSOs' review. DHS agreed that it needed to expand some of the VSOs' activities in Saudi Arabia, such as providing additional training, which we found were not being provided because of the volume of work that resulted from fulfilling the legislative requirement.

Conclusions

The visa process presents a balance between facilitating legitimate travel and identifying those who might harm the United States. State, in coordination with other agencies, has made substantial improvements to the visa process to strengthen it as a national security tool. DHS has also taken steps to assign personnel to consular posts to provide an additional layer of security to the visa process in these locations. However, we identified areas where additional management actions are needed by State and DHS to further improve the efficiency and effectiveness of the visa process.

Mr. Chairman, this concludes my prepared statement. I will be happy to answer any questions you or Members of the Subcommittee may have.

Contact and Staff Acknowledgements

For questions regarding this testimony, please call Jess T. Ford (202) 512-4128 or fordj@gao.gov. Individuals making key contributions to this statement include John Brummet, Assistant Director, and Joseph Carney, Daniel Chen, Kathryn Hartsburg, and John F. Miller.

Appendix I: GAO Reports on the Border Security and Related Areas

Border Security: Strengthened Visa Process Would Benefit From Improvements in Staffing and Information Sharing. GAO-05-859. September 13, 2005.

Border Security: Actions Needed to Strengthen Management of Department of Homeland Security's Visa Security Program. GAO-05-801. July 29, 2005.

Border Security: Streamlined Visas Mantis Program Has Lowered Burden on Foreign Science Students and Scholars, but Further Refinements Needed. GAO-05-198. February 18, 2005.

Border Security: State Department Rollout of Biometric Visas on Schedule, but Guidance Is Lagging. GAO-04-1001. September 9, 2004.

Border Security: Additional Actions Needed to Eliminate Weaknesses in the Visa Revocation Process. GAO-04-795. July 13, 2004.

Visa Operations at U.S. Posts in Canada. GAO-04-708R. May 18, 2004.

Border Security: Improvements Needed to Reduce Time Taken to Adjudicate Visas for Science Students and Scholars. GAO-04-371. February 25, 2004.

State Department: Targets for Hiring, Filling Vacancies Overseas Being Met, but Gaps Remain in Hard-to-Learn Languages. GAO-04-139. November 19, 2003.

Border Security: New Policies and Procedures Are Needed to Fill Gaps in the Visa Revocation Process. GAO-03-798. June 18, 2003.

Border Security: Implications of Eliminating the Visa Waiver Program. GAO-03-38. November 22, 2002.

Technology Assessment: Using Biometrics for Border Security. GAO-03-174. November 15, 2002.

Border Security: Visa Process Should Be Strengthened as an Antiterrorism Tool. GAO-03-132NI. October 21, 2002.

State Department: Staffing Shortfalls and Ineffective Assignment System Compromise Diplomatic Readiness at Hardship Posts. GAO-02-626. June 18, 2002.

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